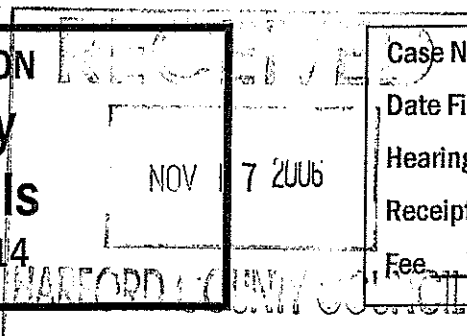


STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014



Case No. 5581
Date Filed 11/03/06
Hearing Date _____
Receipt _____
Fee \$ 450

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

CASE 5581 MAP 56 TYPE Variance

ELECTION DISTRICT 01 LOCATION 2621 Smallwood Dr., Abingdon, MD

BY Ellis Diaz, 2621 Smallwood Dr., Abingdon, MD 21009

Appealed because a variance pursuant to Section 267-41D5(d) of the Harford County Code to disturb the Natural Resource District in the R1 District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Ellis Diaz Phone Number (443) 243-0599

Address 2621 Smallwood Dr Abingdon MD 21009
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser JK Building Inc. Phone Number 410-879-4022

Address 4120 Graceton Rd. Pylesville MD 21132
Street Number Street City State Zip Code

Attorney/Representative N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2621 Smallwood Dr, Abingdon MD 21009.

OverView Manor off of Laurel Rush Rd.

Subdivision _____

Lot Number 49

Acreage/Lot Size 0.2131

Election District 01

Zoning R1/COS NRD adj.

Tax Map No. 56 Grid No. 3F Parcel 423

Water/Sewer: Private ☐ Public ☒

List ALL structures on property and current use: None other than dwelling

Estimated time required to present case: 30 min

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

To fill and grade my property (back yard) which is in a Natural Resource District.

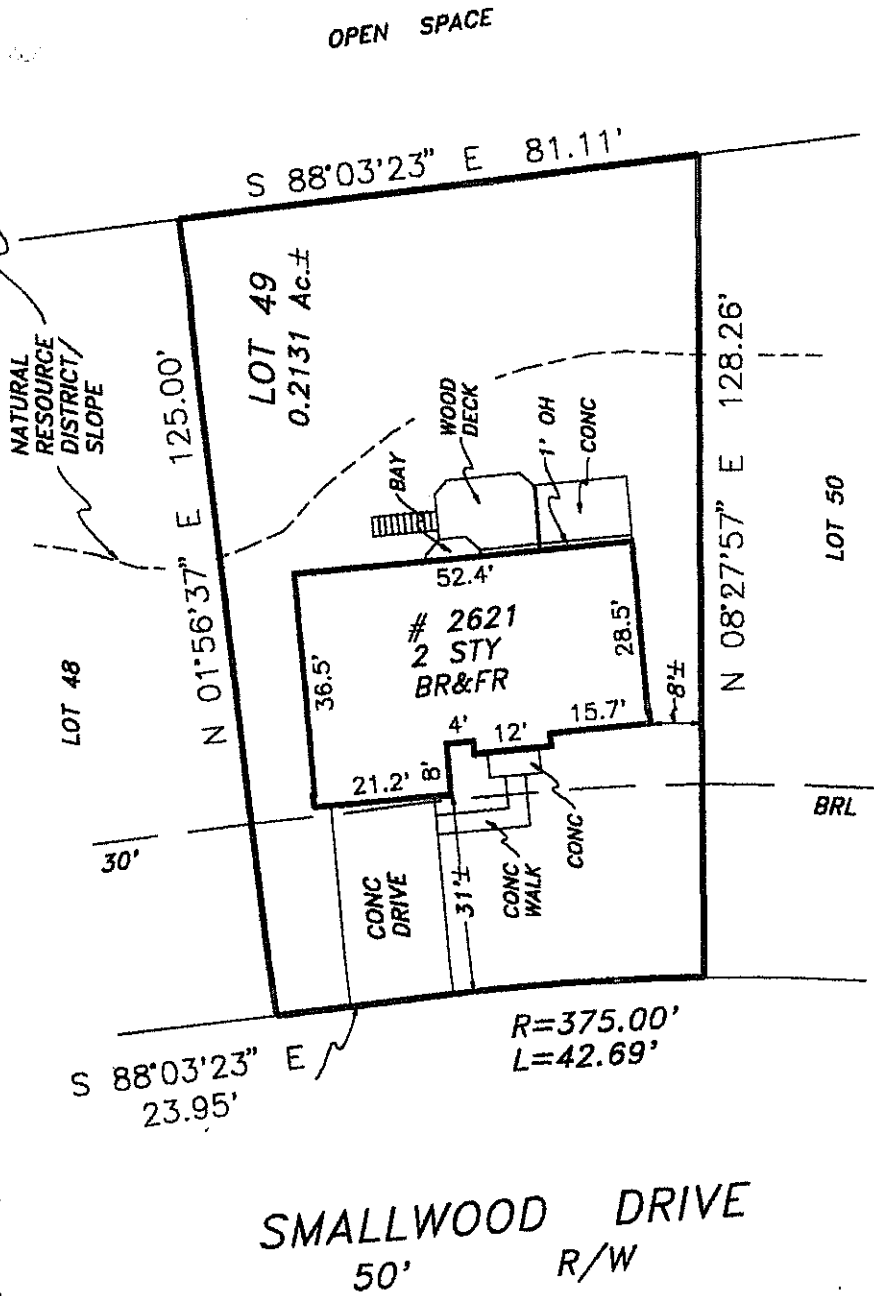
Justification

The purpose of grading the back yard(s) is to stop and prevent the washing away of dirt/land and prevent future injuries to myself and family. The dirt/land is slowly washing away down the slope with every storm and is getting closer to my foundation. My neighbors child and I suffered minor injuries in the past after falling down the current steep slope. After grading is complete, we plan to grow grass and plant several trees to supplement the tree line. There will be no building of any structures.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

NOTES:

- 1) B.R.L. Information, if shown, was obtained from existing record plat or local agencies and is not guaranteed by NTT, Inc.
- 2) Building line and/or Flood Zone information is subject to the interpretation of the originator.
- 3) NTT, Inc. does not certify to unknown or unrecorded encroachments or overlaps.
- 4) Property markers NOT found, or guaranteed by this location.
- 5) Setback distance accuracy: 1'±



Subject property is shown in Zone X on the FIRM Map of HARFORD COUNTY, Maryland on Community Panel 24025C0256 D .Effective JANUARY 7, 2000

This is to certify that I have surveyed the property shown hereon, being known as LOT 49 PLAT 2 OVERVIEW MANOR and recorded among the land records of HARFORD County, Maryland in Plat 65 ,folio 5 for the purpose of locating the improvements thereon.

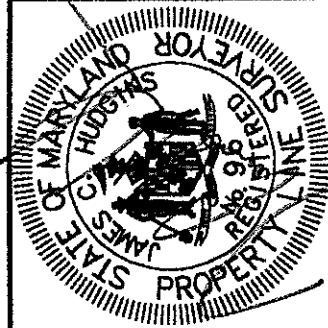
- This plat is of benefit to the consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing, or refinancing purposes.
- This plat is not to be relied upon for the establishment of location of fences, garages, buildings, or other existing or future structures.
- This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or for securing financing or refinancing.

LOCATION DRAWING
2621 SMALLWOOD DRIVE
1st ELECTION DISTRICT
HARFORD COUNTY, MD.

NTT Associates, Inc.

16205 Old Frederick Road
Mt. Airy, Maryland 21771
Ph. (410)442-2031
Fax No. (410)442-1315

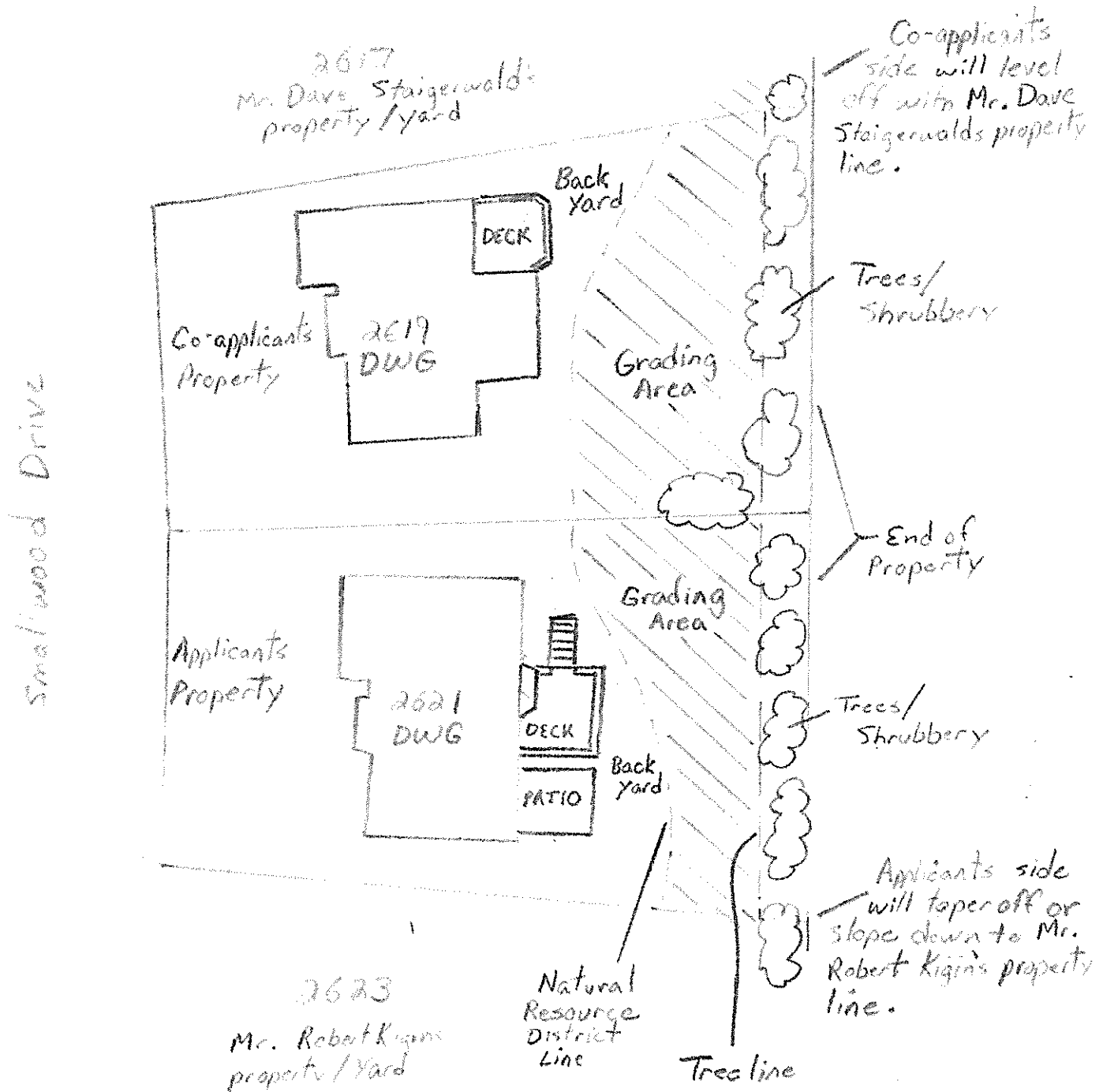
Scale: 1" = 30'
Date: 17SEPT03
Field By: RIK
Drawn By: RIK
Drawing # 90303091



J. Carl Hudgins PLS #96

SKETCH #1

2621 + 2619 Smallwood Dr.
Abingdon, MD 21009



Planning to grade
from slope to tree
line. Approximately
30 to 50 feet.

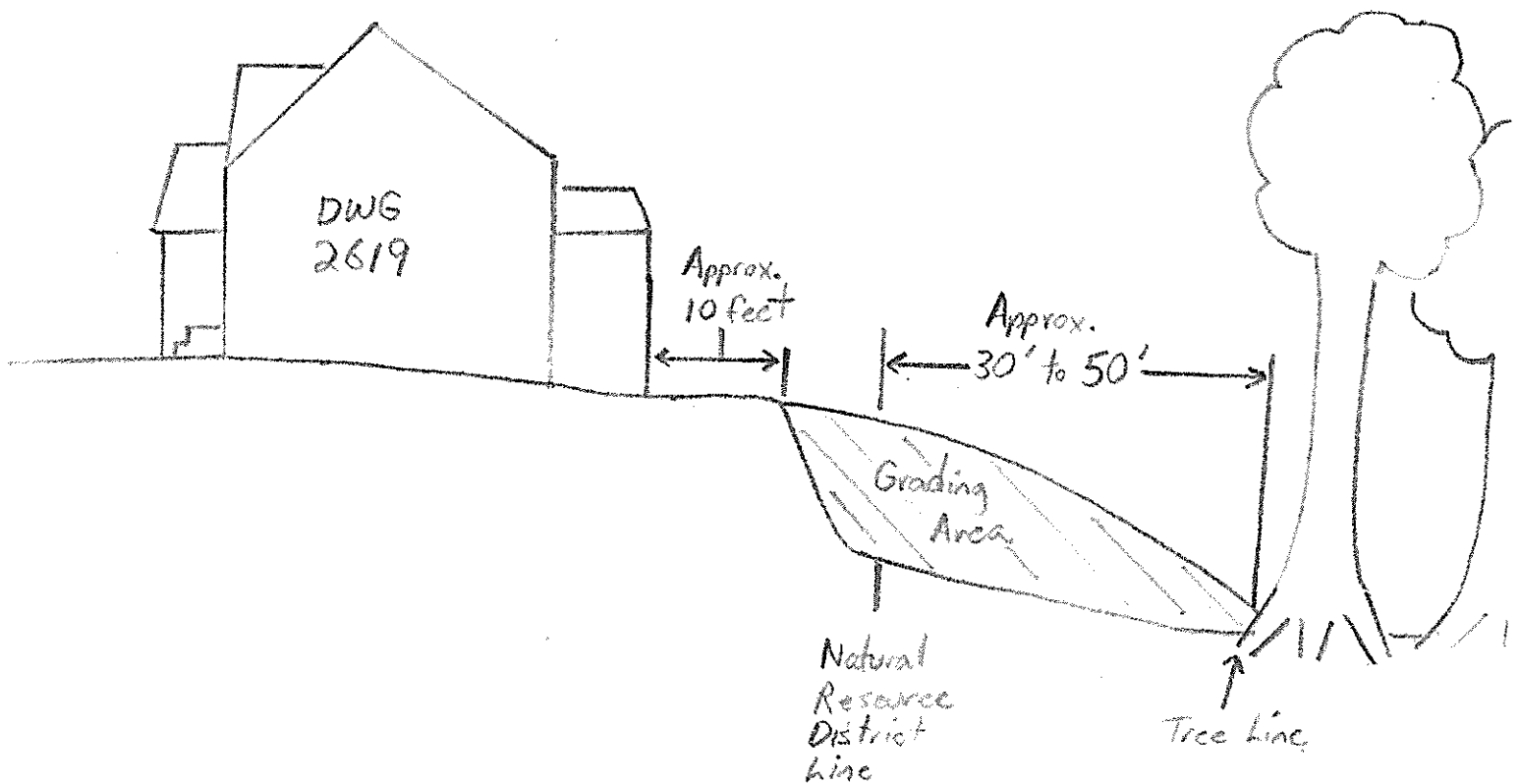
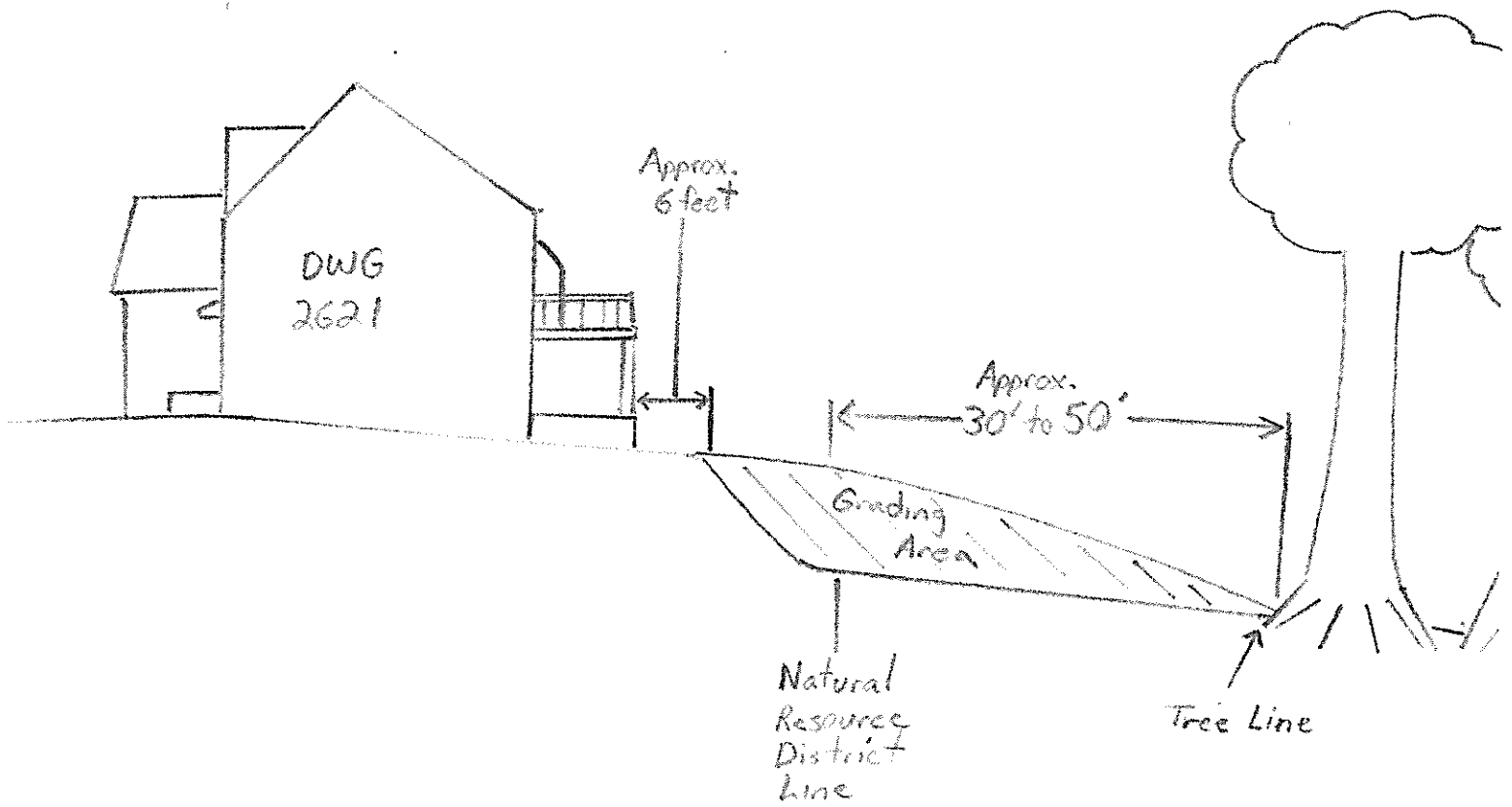


= Area to be graded
and/or filled (approx.)



= Trees/shrubbery

SKETCH #2 (SIDE VIEW)



DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

January 30, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 5581

APPLICANT/OWNER: Ellis Diaz
2621 Smallwood Drive, Abingdon, Maryland 21009

CONTRACTOR: J.K. Building Inc.
4120 Graceton Road Pylesville, Maryland 21132

REPRESENTATIVE: Applicant

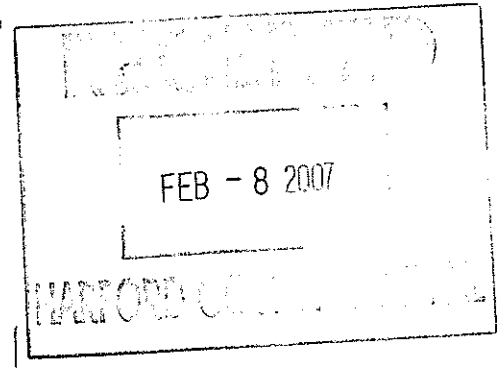
LOCATION: 2621 Smallwood Drive – Overview Manor
Tax Map: 56 / Grid: 3F / Parcel: 423 / Lot: 49
Election District: First (1)

ACREAGE: 0.2131 acres

ZONING: R1/Urban Residential District/Coventional with Open Space
(R1/COS)

DATE FILED: November 3, 2006

HEARING DATE: February 28, 2007



APPLICANT'S REQUEST and JUSTIFICATION:

Request:

“To fill and grade my property (back yard) which is in a Natural Resource District.”

Justification:

Preserving Harford's past; promoting Harford's future

STAFF REPORT

Board of Appeals Case Number 5581

Ellis Diaz

Page 2 of 4

"The purpose of grading the back yard(s) is to stop and prevent the washing away of dirt/land and prevent future injuries to myself and family. The dirt/land is slowly washing away down the slope with every storm and is getting closer to my foundation. My neighbor's child and I suffered minor injuries in the past after falling down the current steep slope. After grading is complete we plan to grow grass and plant several trees to supplement the tree line. There will be no building of any structures."

CODE REQUIREMENTS:

The Applicant is requesting a variance pursuant to Section 267-41D5(d) of the Harford County Code to disturb the Natural Resource District in the R1/Urban Residential District/Conventional with Open Space.

Section 267-4D(5)(d) of the Harford County Code reads:

- (5) *Conservation requirements. The following conservation measures are required within this district:*
 - (d) *Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is situated to the east side of Laurel Bush Road in the development of Overview Manor. The lot fronts on the north side of Smallwood Drive. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 1 and 2).

The subject property is located within the Development Envelope. The predominant land use designations in this area are Low and Medium Intensities. The Natural Features Map reflects Stream Systems and Sensitive Species Project Review Areas. The subject property is designated as Low Intensity on the 2004 Master Plan which is defined as:

Low Intensity – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are example of some of the nonresidential uses associated with this designation.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 3 and 4).

STAFF REPORT

Board of Appeals Case Number 5581

Ellis Diaz

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Land Use – Existing:

The existing land uses in this area are generally consistent with the overall intent of the Master Plan. Residential uses include single family dwellings and townhouses. Commercial uses are generally located along Emmorton Road (MD Route 924 and MD Route 24). The topography of the area ranges from rolling to steep especially near major stream valleys and their tributaries. Enclosed with the report is a copy of the topography map and the aerial photograph for the area (Attachments 5 and 6).

The subject property is rectangular in shape and approximately 0.2131 acres in size. The lot backs up to a 20.5 acre area of open space (Attachment 7). The lot is basically level from the road to the front of the house. However, from the front of the house towards to rear the lot slopes sharply. It levels off somewhat for approximately 12 feet or so and then very sharply drops to the rear lot line and the woods. On the left side of the lot between the subject lot and 2619 (BOA Case 5588) there are steps in order to walk up and down. The open space area to the rear is densely wooded and very steep. The existing improvements consist of a brick and frame 2-story dwelling with an attached 2-car garage, concrete driveway, a deck off the rear of the dwelling a concrete patio in front of the basement door and a utility shed under the deck. Site photographs are enclosed with the report along with an enlargement of the aerial photograph (Attachments 8 and 9).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes R1, R2 and R3/Urban Residential Districts. The subject property is zoned R1/Urban Residential District. The project was created under the Conventional with Open Space (COS) option. Enclosed with the report is a copy of the zoning map (Attachment 10).

SUMMARY:

The Applicant is requesting a variance pursuant to Section 267-41D5(d) of the Harford County Code to disturb the Natural Resource District in the R1/Urban Residential District/Conventional with Open Space.

Section 267-41D(5)(d):

(5) *Conservation requirements. The following conservation measures are required within this district:*

- (d) *Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities.*

STAFF REPORT

Board of Appeals Case Number 5581

Ellis Diaz

Page 4 of 4

Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.

Section 267-41D(6):

- (6) *Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.*

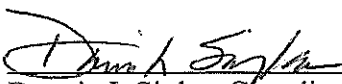
The Applicant is requesting approval to fill and grade in the rear yard, which is recorded as Natural Resource District. The Applicant has provided drawings showing the area that is to be graded (Attachment 11 and 12). The original grading of the lot and the lack of vegetation has caused an erosion problem. The requested variance will not adversely impact the Natural Resource District. If approved the Applicant shall submit a landscaping plan to be reviewed and approved by the Department of Planning and Zoning.

The Maryland Department of the Environment (MDE) was contacted to review the request and offer comments. In a letter dated November 27, 2006, they state that they have no comment on the proposal. A copy of their letter is attached (Attachment 13). The Soil Conservation District has not provided comments at this time.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following:

1. The Applicant shall obtain all necessary approvals and permits for the grading.
2. The Applicant shall submit a landscaping plan to be reviewed and approved by the Department of Planning and Zoning.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf